

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

Case No. 23–cr–20121

v.

HON. THOMAS L. LUDINGTON

Fredy Alonzo Poot-Naal,

Defendant.

Defendant’s Sentencing Memorandum

Defendant, Fredy Poot-Naal, represented by attorney Elias J. Escobedo, Jr., submits his Sentencing Memorandum for this Honorable Court’s review before sentencing.

I. The charges and presentence proceedings.

Defendant Poot-Naal was charged with reentry of a removed alien in violation of 8 U.S.C. § 1326(a). (Indict., ECF No. 1, PageID.1).

Poot-Naal pleaded guilty as charged pursuant to a Rule 11 Plea Agreement entered April 19, 2023. (ECF No. 15).

II. Scoring the Sentencing Guidelines.

Pursuant to the Rule 11 Plea Agreement, the Court will determine the sentencing guideline range. (ECF No. 15, PageID.32).

The probation department calculated Poot-Naal's sentencing guidelines score, which resulted in a range of 0–6 months: after a 2-point reduction for acceptance of responsibility, the offense level is 6, and the criminal history category is I (criminal history score of 0). (PSIR, ECF No. 22, PageID.74).

III. Factors to be considered under 18 U.S.C. § 3553(a).

The Sentencing Guidelines are no longer mandatory but advisory. *United States v. Booker*, 543 U.S. 220, 245-46, 125 S. Ct. 738, 756-57 (2005).

“The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection.” 18 U.S.C. § 3553(a). The Court, in determining the particular sentence to be imposed, shall consider the factors in 18 U.S.C. § 3553(a)(1)–(7), which the defense addresses as follows.

(a)(1) The nature and circumstances of the offense and the history and characteristics of the defendant

The parties agreed to the following basis for Poot-Naal's guilty plea:

On or about January 28, 2023, in the Eastern District of Michigan, the defendant, Fredy Poot-Naal, an alien and citizen of Mexico, was found in the United States after having been deported and removed from the United States on or about August 13, 2019, at or near Brownsville Michigan, and not having obtained the express consent of the Attorney General or the Secretary of Homeland Security to reapply for admission to the United States. [Rule 11, ECF No. 15, PageID.30.]

Fredy Poot-Naal is a 52-year-old Mexican citizen with family and children in Mexico. He has an eight-year relationship with a woman in Flint, Michigan, who is a U.S. citizen but is from Mexico. Poot-Naal spent time with her in the U.S. recently because her son passed away in 2020.

Poot-Naal intends to return to Mexico once he is released from custody to operate a bookstore/gift shop business that he opened with his ex-wife in 2003.

(a)(2) The need for the sentence imposed—

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense.

Poot-Naal understands that he has committed a serious offense. He has been in custody since January 27, 2023. A sentence of time served would be within the 0–6 month guideline range, and it would reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense

**(a)(2) The need for the sentence imposed—
(B) to afford adequate deterrence to criminal conduct.**

Deterrence has been achieved in this case because the public can see that law enforcement has caught Poot-Naal for committing this offense, he was charged in federal court, held in custody for about five months, and is waiting to be sentenced.

**(a)(2) The need for the sentence imposed—
(C) to protect the public from further crimes of the defendant.**

A time served sentence will protect the public.

**(a)(2) The need for the sentence imposed—
(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.**

Poot-Naal does not need any education or treatment from a correctional facility. He is educated at the college level, has work experience, and support from his family in Mexico.

(a)(3) The kinds of sentences available, and (a)(4) the kinds of sentence and the sentencing range established.

Since Poot-Naal, will most likely be immediately deported upon completion of his sentence of incarceration, supervised release is unnecessary.

(a)(6) The need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

The probation department has determined that defendants with similar records and guideline scores have been sentenced for an average of 3 months imprisonment and a median length of imprisonment of 2 months. (PSIR, ECF No. 22, PageID.82).

Relief Requested

Defendant moves this Honorable Court to sentence him to time served, a period of time sufficient but not greater than necessary to comply with the purposes that Congress set forth in 18 U.S.C. § 3553(a)(2).

Respectfully submitted,

/s/ Elias J. Escobedo, Jr.
ELIAS J. ESCOBEDO, JR. (P37808)
Elias J. Escobedo, Jr., PLLC
Attorney for Defendant
995 W Huron St
Waterford, MI 48328-3729
(248) 682-8400
fax: (248) 682-6212
elias@escobedolaw.com

Dated: June 24, 2023,

Certificate of Service

I certify that on June 24, 2023, I electronically filed the above Sentencing Memorandum with the Clerk of the Court using the CM/ECF system, which served the document(s) to the parties of record.

/s/ Elias J. Escobedo, Jr.
ELIAS J. ESCOBEDO, JR. (P37808)
Attorney for Defendant